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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,494	11/14/2003	Paulette J. Miller	LIT.01	9184
25871	7590	09/12/2005	EXAMINER	
SWANSON & BRATSCHUN L.L.C. 1745 SHEA CENTER DRIVE SUITE 330 HIGHLANDS RANCH, CO 80129			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,494

Applicant(s)

MILLER ET AL.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 and 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens.

The Stevens reference discloses a bathing apparatus comprising: a flexible sheet 52; attachment means 54; and connecting means 72, as claimed. Re claim 1, the initial statement of intended use (bathing vessel), and all other functional implications related thereto (lns. 4-6), have been considered but do not appear to impose any patentably distinguishing structure over that disclosed by Stevens.

Applicant argues at page 9 of the response filed August 05, 2005 the attachment means of the Stevens bathing apparatus is

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permanently attached to the flexible sheet as discussed at column 4, line 35. The examiner can not agree. The Stevens disclosure has again been reviewed, including the noted location, but no teaching of permanently attaching the suction cups 54 to the sheet 52 was found therein. Indeed, the suction cups of Stevens are disclosed as being attachable to a backing 72 by a process which may be considered "permanent", but no exclusive "permanent" connection between the suction cups and sheet is taught thereby. In fact, Stevens teaches away from permanently attaching the suction cups to the sheet as the sheet is intended to be washed (col. 2 lns. 57-59). Indeed, the suction cups include posts 75 which are merely inserted through apertures 71 in the sheet as taught at column 4, lines 32-39, and illustrated in Fig. 3.

3. Claims 1-5, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens and Kiester.

Although the connecting means of the Stevens bathing apparatus does not include a strap, as claimed, attention is directed to the Kiester reference which discloses an analogous bathing apparatus which further includes connecting means having a strap (Fig. 5). Therefore, in consideration of Kiester, it would have been obvious to one of ordinary skill in the

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connecting means art to associate a strap with the Stevens bathing apparatus in order to facilitate attachment.

Applicant argues at page 10 of the response there is no motivation for providing the removable connecting means disclosed by Kiester with the attachment means disclosed by Stevens. The examiner can not agree. Stevens expressly "motivates" one to utilize different attachment means. Note again, column 4, lines 32-39, in Stevens.

4. Applicant's remaining remarks have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied in light of the level of skill in the pertinent art.

5. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

6. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

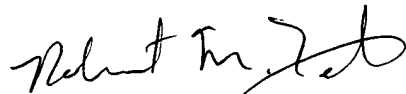
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', is positioned above the printed name.

Robert M. Fetsuga
Primary Examiner
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